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HAND DELIVERED

August 15, 2012

Newport Beach Zoning Administrator
3300 Newport Boulevard
Newport Beach, CA 92661

Re: ZONING VARIANCE REQUEST FOR JOHNSTON, JERRY AND DONNA
324 MORNING CANYON ROAD, CORONA DEL MAR, CA
OCSC Case No. Pending

Dear Sir or Madam Administrator:

First and foremost, I believe this hearing should be wholly or partially continued for the following reasons: We only received notice of the hearing last week by information sent to my Dad's office (explained later) as opposed to our home located at **330 Morning Canyon Rd.**, north and adjacent to the subject property with a view over said property from our higher elevation. Because of the delayed notice, I am unaware of what the specific issues are and also and more importantly, I have never been given sufficient opportunity to look at the reconstruction plans.

History: in or about April or May Jerry Johnston ("Jerry") asked me to allow surveyors onto my property so as to make evaluations regarding a home remodel. At that time, I expressed that I very much wanted to be kept in the loop so that I could provide my input before too much money was spent and that such an argument would NOT be the partial basis for allowing the reconstruction. In or about June, our Home Owner's Association ("HOA") became a legitimate HOA, for the first time requiring that annual fees be paid by the Shore Cliff's Home Owners. I was distraught and dismayed when I found that one set of Jerry's reconstruction plans had already been approved by the HOA architectural committee without any notice, participation or knowledge to me. I am informed and believed that Jerry was recently serving on the HOA architectural committee. Anyhow, I sent an email to Jerry on June 2, 2012, expressing my concern. Thereafter, the HOA assured me that they will keep me involved and that "I DON'T NEED TO EXPRESS ANY CONCERN OR OPINION UNTIL THE STICKS GO UP." Thereafter, I again expressed my concern to Jerry, via text message that I be kept in the loop but that I would head the advice of the HOA. I hereby set forth to any and all concerned that I have been asking for involvement in this remodel sense I became aware of it's conception and that any argument by Jerry that he has invested time and money to this project as a reason for it's being accepted by any governing body should fall on deaf ears. My statements to Jerry regarding my involvement were made to prevent that actuality, yet I have been and remain, completely OUT OF THE LOOP. No property will be more affected by this remodel than mine, and

to date, I have received absolutely no information whatsoever regarding the scope of the remodel, despite several requests and demands. In fact, it seems the HOA, entirely led me astray when they informed me it was customary for me to only become involved "after the sticks go up." Now, at the last minute, I am reading notices of issue preclusion.

This home has been in my Family since 1980, inasmuch as I maintain the property and expenses, it has been placed in trust to me and my siblings but providing me with an option to purchase upon my Father's demise. Notwithstanding, my Father has given full authority and retained my services to act as his attorney on this matter, thus, for these reasons, I am presenting my argument in the first person. My Father only received notice of this hearing last week at his office. My wife also recently took notice from the signs posted on Jerry's property. Whereas there is mention of ISSUE PRECLUSION in the notice documents, I wholly object to this sanction as I have not been given proper notice and/or any sufficient time to investigate this matter. I consider this to be both a procedural and substantive violation of my due process rights.

If this hearing shall not be continued, I fully object to any and all variances being issued for the reasons stated above and, including but not limited to, the following:

1. First, I am not exactly sure of what the full scope of this hearing entails, Jerry recently sent me a text message, however, from what I understand this variance is a request to proceed with a Major Remodel which would increase the size of his home by 36% but said remodel is being limited to 10% because the garage is less than 20 by 20 feet. At this point, I am constrained to set forth that this code section was not arbitrary or capricious but was put in place to protect adjacent homeowners from loss of use and enjoyment of their property. I understand that Jerry is making the case that this is simply a matter of inches, but this variance for the so called "matter of inches" could have a major impact on his project and the view and use and enjoyment that I seek to protect;

2. I very much understand that this might cause Jerry to create a new plan that does not violate THIS code but might further try to obstruct my view and use and enjoyment of my property. Notwithstanding, as his request for a variance ultimately seeks to increase the size of his living space by an enormous 36%, I am constrained to object to the issuance of a variance for all conceivable reasons, stated and unstated;

3. Inasmuch as I have a four car garage on my property which is a two story home, I don't believe that it is reasonable for Jerry to be given a variance, especially when you consider the extent of the substantial remodel which I can only imagine is to build out the entirety of his THIRD STORY. At this time, I don't believe he uses his small two car garage for anything but storage and parks only one of his vehicles on his relatively small driveway. The other is parked in the street; and

4. With all this added living space (36%) and such a small garage, future homeowners of his property must likewise be considered inasmuch as dozens of drivers could be forced to share this inadequate garage space that clearly does not have enough garage storage, car space and/or even

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driveway space. The bottom line is that HIS GARAGE IS CLEARLY NOT OF ADEQUATE SIZE.

For all of these reasons and those stated at the eventual hearing of this matter, we respectfully request that you deny Jerry's request for a variance in accordance with the Newport Beach Zoning Laws.

Any and all correspondence to me should be mailed to:

Phillip A. Case
330 Morning Canyon Rd.
Corona del Mar, CA 92625

Very truly yours,

A handwritten signature in dark ink, appearing to be 'P. Case', written in a cursive style.

PHILLIP A. CASE, Esq.
Attorney for the firm

PAC:lkr

cc: Jerry Johnston (hand delivered)
Shorecliff's Community Association (faxed with Notice of Public Hearing).